

2003 Indiana Candidate Guide



Published by the
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Important Note about Using the 2003 Indiana Candidate Guide

This publication is not a legal document. It does not replace the Indiana Election Code. Every effort has been made to ensure the accuracy of the information contained in this publication. However, this Guide should be used only in conjunction with the election statutes.

If any inconsistency exists between this publication and the election statutes, the statutory language governs.

Most statements in this Guide are followed by a statutory cite, such as “IC 3-8-2-5.” The “IC” stands for Indiana Code and the numbers following “IC” refer to the title, article, chapter, and section of an Indiana statute (e.g. “IC 3-8-2-5” means Indiana Code title 3, article 8, chapter 2, section 5).

Consult the Indiana Code and the 2002 Indiana Election Code to check for changes or updates to the election statutes. Become familiar with the laws governing your candidacy and the office you seek. The 2002 version of the Indiana Code is available on the Internet at www.in.gov/legislative/ic/code.

The information in this Guide reflects Indiana law as of October 1, 2002. However, since election laws may be changed each year, **consult with your personal attorney** to make certain you know and understand the most current version of the law.

The Indiana Election Division cannot provide legal advice to you as a candidate. You must retain your own attorney.

The Election Division cannot provide information concerning the specific duties or responsibilities of a local government office. For information on this subject, contact:

Association of Indiana Counties
10 W. Market Street, Suite 1060
Indianapolis, IN 46204-2986
(317) 684-3710
www.indianacounties.org

Indiana Association of Cities & Towns
150 W. Market Street, Suite 728
Indianapolis, IN 46204
(317) 237-6200
www.citiesandtowns.org

Indiana Township Association
5680 Caito Dr., Suite 105
Indianapolis, IN 46226
(317) 541-9750
www.indianatownshipassoc.org

Note about Lake County and Tippecanoe County Boards of Elections and Registration: Each county, with the exception of Lake County and Tippecanoe County, has a county election board. In Lake and Tippecanoe Counties, separate state statutes govern the organization of the county board of elections and registration. (IC 3-6-5.2 (Lake County); IC 3-6-5.4 (Tippecanoe County)) For Lake and Tippecanoe Counties, references in this Guide to a “county election board” (for candidate filing purposes for example), refers to the boards of elections and registration in Lake County and Tippecanoe County. References to circuit court clerk refers to the Lake County election director and the office of the Tippecanoe County board of elections and registration.

Please feel free to contact the Indiana Election Division with any questions about this Guide or information concerning candidates.

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GENERAL INFORMATION

ELECTION FORMS

Several candidate-related election forms are included in this Guide. On December 9-10, 2002, the Election Division will provide a copy of all election related forms to each circuit court clerk. These forms will then be available from county election board offices. However, please allow time for the circuit court clerk to arrange for the printing and delivery of copies of these forms following the December distribution date.

This Candidate Guide along with the candidate forms will also be available from the Election Division's office and on the Division's website at www.in.gov/sos/elections.

Indiana Code 3-5-4-8 now provides that a person must use the most recent version of any form approved by the Indiana Election Commission to comply with the election statutes.

IC 3-5-4-8(c) states that the election division, an election board, a circuit court clerk, a county voter registration office, or any other official responsible for receiving an election filing **shall reject** a filing that is not on the most recent version of a state prescribed form.

For this reason, it is CRITICALLY IMPORTANT to ensure that a candidate complies with Indiana Code 3-5-4-8 before filing a document required or permitted by the election code.

Each state prescribed form contains a state form number and a revision date, usually in the upper left or upper right corner of the form, for example: "SF 46439 (R6;11-01)." This provides a method to quickly determine which version of a form has been provided. For more information concerning the current version of any state prescribed election form, contact the Election Division.

IMPORTANT VOTER REGISTRATION INFORMATION

Candidates sometimes provide voter registration applications to potential voters. If the candidate keeps the completed application, the candidate is responsible for ensuring that the completed application is received by the appropriate county voter registration office **NO LATER THAN THE REGISTRATION DEADLINE** for the **MUNICIPAL PRIMARY ELECTION** (close of business on April 7, 2003) or the **MUNICIPAL ELECTION** (close of business on October 6, 2003). A candidate who recklessly fails to file the completed applications is subject to penalties under federal and state law.

STATE ELECTION REFERENCES

State Offices

Indiana Election Division
Office of the Secretary of State
Indiana Government Center South, E204
302 West Washington Street
Indianapolis, IN 46204-2743
(800) 622-4941 (in Indiana) * (317) 232-3939
www.in.gov/sos/elections

Secretary of State
Administrative Division
200 West Washington Street
State House, Room 201
Indianapolis, IN 46204-2791
(317) 232-6531
www.in.gov/sos

Political Parties

Democratic State Central Committee
One North Capitol Avenue, Suite 200
Indianapolis, IN 46204
(317) 231-7100
www.indems.org

Republican State Central Committee
47 South Meridian Street, 2nd Floor
Indianapolis, IN 46204
(317) 635-7561
www.indgop.org

Libertarian Party of Indiana
156 E. Market Street, Suite 405
Indianapolis, IN 46204
(317) 920-1994
www.lpin.org

PLACEMENT ON THE BALLOT

Candidate Challenges

The placement of any individual on the primary or municipal election ballot may be challenged if the individual has not complied with the requirements set forth for candidates under Indiana law.

Candidate challenges concerning individuals who file as candidates for city offices, town offices, or school board offices come before the appropriate county election board for resolution.

Before a county election board may consider a challenge to a candidate, a registered voter of the election district that the candidate seeks to represent must have filed a sworn statement with the county election board. The sworn statement must question the eligibility of the candidate to seek the office and set forth the facts known to the voter concerning this question. (IC 3-8-1-2) The CAN-1 form may be used for a candidate challenge. A CAN-1 is included under the *Candidate Forms* tab of this Guide.

The county election board must determine the validity of the candidate's filing. State law specifies the various deadlines before the primary election or municipal election by which a challenger must file a challenge with the board, and the deadlines by which the board must make this determination. (See IC 3-8-2-14 (primary candidates); IC 3-8-6-14 (independent and minor party candidates); IC 3-13-1-16.5 (candidates who fill "early ballot" vacancies); and IC 3-13-2-11 (candidates who fill "late ballot" vacancies))

The county election boards will make every effort to notify candidates and other interested parties as promptly as possible when a challenge has been filed. However, due to the short period of time between the close of candidate filings and the printing of absentee ballots, the board may need to rely on informal methods such as telephone calls to give the best possible notice to these individuals.

County election board meetings concerning candidate challenges are public meetings, for which notice must be given in accordance with the Open Door Law. (IC 5-14-1.5) Except for requirements set forth in the Open Door Law, county election boards are not required to follow specific procedures in conducting these meetings.

The Election Division cannot give legal advice or assistance to candidates who are challenged before a county election board. The candidate must seek the advice and representation of a personal attorney in these cases.

If a candidate or other interested party objects to the determination of a county election board, the candidate or interested party may appeal the determination to an appropriate court for a decision in the same manner that other administrative decisions are appealed.

Candidate Names and Nicknames

An individual filing as a primary election, convention, minor or independent or write-in candidate must list the individual's name on the candidate filing **in the same form as the individual wants the name to appear on the ballot and the candidate's name is permitted to appear on the ballot under IC 3-5-7.** (IC 3-8-2-2.5; IC 3-8-2-7; IC 3-8-5-10.5; IC 3-8-6-5; IC 3-8-7-10; IC 3-10-2-15)

A candidate is only permitted to use certain "designations" for the form in which the candidate's legal name appears on the ballot.

To implement this requirement, a candidate's "designation" is defined as referring to the name, nickname, initial, abbreviation, or number used to identify the individual. However, a designation may not be a title or degree, or imply a title or degree. A candidate's "name" refers to any of the following: (1) the candidate's given name; (2) the candidate's surname; and (3) the candidate's middle name. (IC 3-5-7)

To determine a candidate's "legal name" for ballot placement purposes, the candidate's legal name is the name shown on the candidate's birth certificate. If a candidate takes another name through a judicial proceeding or uses a name after marriage in the manner described below, then the most recent name used after marriage or taken in the judicial proceeding is considered the candidate's legal name. If a candidate changes the candidate's legal name after a candidate is nominated, the candidate shall file a statement with the office where the candidate previously filed the declaration of candidacy or certificate of nomination setting forth: (1) the former legal name; (2) the current legal name; and (3) how the candidate's legal name was changed.

A candidate's legal name after marriage can be any one of the following: (1) the name appearing on the candidate's birth certificate (as in *Mary Jane Doe*, for example); (2) the name used by the candidate on the application for a marriage license, (as in *John Smith*, for example); or (3) any combination of the names that the candidate or the candidate's spouse used as applicants for the marriage license, (as in *Mary Jane Smith*, *Mary Doe Smith*, or *John Smith-Doe*, for example).

First Designation: Assume a candidate has the legal name of Judith Anne Smith with the nickname of Judy. The first designation used on the ballot may be any one of the following: (1) the candidate's legal given name (*Judith*); (2) the initial of the candidate's legal given name (*J*); (3) the candidate's legal middle name (*Anne*); (4) the initial of the candidate's legal middle name (*A*); or (5) the candidate's nickname (*Judy*).

Second Designation: The second designation used on the ballot may be any one of the following, *without repeating any designation used as the first designation*: (1) the candidate's legal middle name (*Anne*); (2) the initial of the candidate's legal middle name (*A*); (3) the candidate's nickname (*Judy*); or (4) the candidate's legal surname (*Smith*).

Third Designation: The third designation used on the ballot may be any one of the following, *without repeating any designation already used as the first or second designation*: (1) the candidate's nickname (*Judy*); or (2) the candidate's legal surname (*Smith*).

The following are examples of acceptable candidate name designations:

Judith Anne Smith
J. Anne Smith
Judith A. Smith
Judith Smith
Anne Smith
J.A. Smith
J. Smith
A. Smith
Judith (Judy) Anne Smith
Judy Smith

A candidate can use the candidate's legal surname after the third designation if the candidate did not use the legal surname as the second or third designation. A candidate can also use *Sr.*, *Jr.*, or a numerical designation such as *II* or *III* after the candidate's legal surname.

A nickname used by a candidate on the ballot must be:

- (1) the nickname by which the candidate is commonly known;
- (2) does not exceed twenty (20) characters in length; and
- (3) does not imply a title or degree.

Unless the candidate uses the nickname as the first designation, the nickname must appear in parentheses. For example, *Judith (Judy) Anne Smith*.

EXAMPLES: A ballot listing of "John R. (Doc) Doe" would not be permitted since the nickname implies a title or degree. Likewise, a ballot listing would not be permitted if the selected nickname was NOT one by which the candidate was COMMONLY known.

Sometimes an individual may change his or her name after filing as a candidate. If the candidate wishes to change the candidate's legal name **before** absentee ballots are printed for the election, the candidate must file a statement with the office where the candidate's declaration of candidacy or certificate of nomination was filed. This statement must set forth the current and former name of the candidate, and indicate that the candidate has already filed a change of name request with the appropriate county voter registration office. After this statement is filed, the county election board will print ballots bearing the candidate's new name. (IC 3-8-7-25.5)

If a candidate's legal name is changed **after** absentee ballots are printed for an election and the candidate wishes the ballot changed to reflect the new name, the candidate must provide pasters to the county election board at the candidate's expense. If the candidate does not do so, the Election Division or county election board is not required to reprint ballots to reflect the new name. (IC 3-11-3-29)

Candidate Vacancies

There are several reasons why a "candidate vacancy" may occur on a primary or municipal election ballot. However, the procedures and deadlines for filling these vacancies vary considerably.

If No Candidate Runs In a Major Party Primary

On occasion, no candidate will file for the Democratic or Republican Party nomination to an office before a primary election. If this occurs, the vacancy may **not** be filled before the primary. (IC 3-13-1-2)

Immediately following the primary election, the political party may begin the process of filling the ballot vacancy. However, no political party is ever **required** to fill a ballot vacancy, even if an individual wishes to run as a candidate for the vacant nomination.

For city or town offices, the county chairman may call a caucus of the precinct committeemen within the district. However, if the county committee has adopted a resolution to delegate this candidate vacancy filling authority to the county chairman (or to the chairman, vice-chairman, secretary, and treasurer of the county committee), then the candidate vacancy may be filled by direct appointment, without conducting a caucus. (IC 3-13-1-6; 3-13-1-7; 3-13-1-8)

If a chairman calls a caucus of the political party to fill a ballot vacancy, the chairman must employ a form (CAN-47) prescribed by the Indiana Election Commission. A CAN-47 is available from the Election Division's office and each circuit court clerk's office.

A person who wishes to be selected by the caucus to fill a candidate vacancy for a city or town office must file a CAN-48 form with **both** the caucus chairman and the county election board. (IC 3-13-1-10.5) A CAN-48 is available from the Election Division's office and each circuit court clerk's office. A CAN-48 is included under the *Candidate Forms* tab of this Guide.

The deadline for the Democratic or Republican Party to conduct a political party caucus to fill a vacancy existing on the municipal election ballot resulting from a vacancy on the primary election ballot is Monday, June 30, 2003. (IC 3-13-1-2; IC 3-13-1-7)

After the political party fills this vacancy, the chairman must file a written certificate with the circuit court clerk if the nomination is for a city or town office. (CAN-49 form) The CAN-49 form is available from the Election Division's office or each circuit court clerk's office. The certificate must be filed **no later than 12:00 noon, prevailing local time, Thursday, July 3, 2003.** (IC 3-13-1-2; IC 3-13-1-7; IC 3-13-1-15)

Filling a Ballot Vacancy Due to the Death, Withdrawal or Disqualification of a Candidate

When a candidate dies, withdraws, or is disqualified under Indiana Code 3-8-1-5 due to a criminal conviction, or a court order issued under IC 3-8-7-29(d), the political party is permitted to fill the resulting vacancy IF it does so no later than thirty (30) days after the vacancy occurs. (IC 3-13-1-7)

The requirements discussed above for calling a caucus and filing a declaration of candidacy apply to filling this type of candidate vacancy. However, the political party chairman must file the certificate of candidate selection (CAN-49 form) no later than three days (excluding Saturdays and Sundays) after the party fills the candidate vacancy. (IC 3-13-1-15)

Late Vacancy Special Procedures

If a candidate dies, withdraws or is disqualified during the final 30 days before the election, there are special expedited procedures for filling the vacancy. In most cases, the candidate vacancy is filled by direct appointment by the county chairman of the political party of the county in which the greatest percentage of the population of the election district is located. (IC 3-13-2)

The same general procedures apply regarding the filing of a certificate of candidate selection in these cases. (IC 3-13-2-8)

If a candidate vacancy is filled during the final five (5) days before an election, a county election board is not required to reprint ballots or use pasters to include the name of the successor candidate on the ballot. (IC 3-11-3-29.5)

Libertarian Party Candidates

The deadline for the Libertarian Party to fill a vacancy existing on the municipal election ballot resulting from a vacancy for an office nominated by that party at a convention is Monday, June 30, 2003. (IC 3-13-1-20)

Once the vacancy is filled for a city or town office, the county chair and secretary must file a certificate of nomination with the county election board. **The certificate must be filed no later than noon, Thursday, July 3, 2003.** (IC 3-13-1-20)

If a vacancy occurs for any other reason, the same procedure applies, but the certificate must be filed no later than three days (excluding Saturdays and Sundays) after the selection of the candidate. (IC 3-13-1-20) Special procedures apply to candidate vacancies occurring within the final 30 days before the election. (IC 3-13-2-12)

Candidate Vacancies on a Petition of Nomination

If a candidate for city or town office is not affiliated with the Democratic Party, the Libertarian Party, or the Republican Party, and the candidate withdraws, dies, or is disqualified, the resulting candidate vacancy can be filled by the state chairman of the candidate's political party. The chairman can fill this vacancy at any time after a petition of nomination has been circulated or filed for certification by a county voter registration office by filing a statement with the county election board. (IC 3-8-6-17) (CAN-40 form and CAN-45 form)

This statement must include the following:

- (1) The name of the individual who ceased to be a candidate.
- (2) The date and reason why the person ceased to be a candidate.
- (3) The name and written consent of the successor candidate.
- (4) If other individuals were also candidates on the same petition of nomination, the consent of each other candidate to the selection of the successor candidate.

The statement must be filed no later than noon, Tuesday, September 2, 2003. The CAN-40 form and CAN-45 form are available from the Election Division's office or each circuit court clerk's office. (IC 3-8-6-17)

A similar procedure applies to filling candidate vacancies for individuals nominated by petition for "small" town offices with a population of less than 3,500. The town chairman of the party must file a certificate of candidate selection with the county election board no later than **12:00 noon, prevailing local time, Thursday, August 28, 2003.** (IC 3-13-1-18)

Independent Candidates and Write-ins

If a petition of nomination is circulated or filed by an independent candidate, another candidate may not be substituted on the petition of nomination. (IC 3-8-6-17)

There is no procedure in Indiana law for the replacement of a write-in candidate.

CAMPAIGN FINANCE INFORMATION

The 2002 Indiana Campaign Finance Manual is available from the Indiana Election Division's office and on the Division's website at www.in.gov/sos/elections, along with the forms required for campaign finance filings with the County Election Boards.

CITY OFFICES

Candidates for these offices file the campaign finance documents with the county election board. Candidates should contact the county election board for information on campaign finance reporting requirements.

TOWN OFFICES

Candidates for these offices file the campaign finance documents with the county election board. Candidates should contact the county election board for information on campaign finance reporting requirements.

CITY OFFICES

MAYOR CITY-COUNTY COUNCIL CITY COMMON COUNCIL CITY CLERK CITY CLERK-TREASURER CITY JUDGE

A. Qualifications

1. Mayor

IC 3-8-1-1 provides that:

“...(b) A person is not qualified to run for ... (2) A local office...unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certification of nomination.”

IC 3-8-1-5(b)(3) provides that:

“A person is disqualified from holding or being a candidate for an elected office if the person...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony.”

IC 3-8-1-24 provides that:

“A candidate for the office of mayor of a first class city [Indianapolis] must have resided in the city for at least five (5) years before the date of taking office.”

IC 3-8-1-26 provides that:

“A candidate for the office of mayor of a second or third class city must have resided in the city for at least one (1) year before the election.”

IC 36-4-5-2(c) provides that:

“Residency in territory that is annexed by the city before the election is considered residency for the purposes of [candidate qualifications under IC 3-8-1-26]..., even if the annexation takes effect less than one (1) year before the election.”

2. City-County Council City Common Council

IC 3-8-1-1 provides that:

“...(b) A person is not qualified to run for ... (2) A local office...unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certification of nomination.”

IC 3-8-1-5(b)(3) provides that:

“A person is disqualified from holding or being a candidate for an elected office if the person...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony.”

IC 3-8-1-25 provides that:

“A candidate for membership on city-county of a first class city [Indianapolis] must have resided in the district in which seeking election, if applicable, for at least two (2) years before the date of taking office.”

IC 3-8-1-27 provides that:

“A candidate for membership on the common council of a second or third class city must: (1) have resided in the city for at least one (1) year; and (2) have resided in the district in which seeking election, if applicable, for at least six (6) months before the election.”

IC 36-4-6-2(c) provides that:

“Residency in territory that is annexed by the city before the person files a declaration of candidacy or petition of nomination is considered residency for the purposes of [candidate qualifications under IC 3-8-1-27], even if the annexation takes effect less than one (1) year before the election.”

**First Class City
(Indianapolis)**

In Indianapolis, the city’s legislative body is designated as the “City-County Council” due to the consolidated city-county structure of local government. The City-County Council consists of 29 members: 25 members elected by voters in each of the 25 city-county council districts, plus 4 additional members elected at large by all the voters of the city. (IC 36-3-4-3)

Second Class Cities

In all cities other than Indianapolis, the legislative body is designated as the “City Common Council.” However, the number and election procedures for city common council members differs between second and third class cities, and can be altered in some cases by city ordinance. (IC 36-4-6-3; IC 36-4-6-4; IC 36-4-6-5)

In a second class city, the city common council consists of 6 members elected by voters in each of the 6 city council districts, plus 3 additional members elected at large by all the voters of the city. (IC 36-4-6-3)

Third Class Cities

In a third class city, the city common council consists of 5 members elected by voters in each of 5 city council districts, plus 2 members elected at large by all the voters of the city. (IC 36-4-6-4) However, a third class city can alter this structure by adopting an ordinance to provide for a common council consisting of 4 district members elected by voters in each of 4 city council districts, and 3 members elected at large by all the voters of the city. Consult with the city clerk-treasurer or city attorney for more information about any such ordinance.

In other third class cities with a population of less than 10,000, the city council may be organized and elected in accordance with an ordinance adopted before September 1, 1982. The city ordinance organizing the common councils in these cities may provide that the common council consists of either 4 district members and 1 at large member, or 3 district members and 2 at large members. Under either option, the district members are elected by only the voters of that district, and the remaining members are elected at large by all the voters of the city. Consult with the city clerk-treasurer or city attorney for more information about any such ordinance.

Some third class cities with a population of less than 7,000 may also elect their 5 member city common council in accordance with a special resolution adopted before May 7, 1991. A voter in a city operating under this procedure votes for 1 at large candidate for city common council and for 1 candidate from each of its 4 council districts. Consult with the city clerk-treasurer or city attorney for more information about any such resolution.

3. City Clerk City Clerk-Treasurer

Each second class city is required to elect a city clerk. The city clerk is elected by all the voters of the city. (IC 36-4-10-2)

Each third class city is required to elect a city clerk-treasurer. The city clerk-treasurer is elected by all the voters of the city. (IC 36-4-10-2)

IC 3-8-1-1 provides that:

"...(b) A person is not qualified to run for ... (2) A local office...unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certification of nomination."

IC 3-8-1-5(b)(3) provides that:

"A person is disqualified from holding or being a candidate for an elected office if the person...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony."

IC 3-8-1-28 provides that:

"A candidate for the office of city clerk of a second class city or city clerk-treasurer of a third class city must have resided in the city for at least one (1) year before the election."

IC 36-4-10-3(b) provides that:

"(b) Residency in territory that is annexed by the city before the election is considered residency for the purposes of [candidate qualifications under IC 3-8-1-28], even if the annexation takes effect less than one (1) year before the election."

4. City Judge

Each second class or third class city is required to elect a city judge if the city has created a city court by ordinance. (IC 33-10.1-1-3) The city judge is elected by all the voters of the city. (IC 33-10.1-3-1.1)

IC 3-8-1-1 does not apply to a candidate for judge of a city court.

IC 3-8-1-5(b)(3) applies to all city judges and provides that:

"A person is disqualified from holding or being a candidate for an elected office if the person ...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony."

City Judges for Cities in St. Joseph County

IC 3-8-1-1.5 provides that:

"...(b) A person is not qualified to run for [city court judge in a city in St. Joseph County] unless not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination, the person is registered to vote in a county in which the municipality is located."

City Judges for Cities in All Other Counties

IC 3-8-1-28.5 provides that:

"...(b) A candidate for the office of judge of a city court must reside in the city upon filing a declaration of candidacy or declaration of intent to be a write-in candidate under IC 3-8-2, a petition of nomination under IC 3-8-6, or a certificate of nomination under IC 3-10-6-12.

(c) A candidate for the office of judge of a city court must reside in a county in which the city is located upon the filing of a certificate of candidate selection under IC 3-13-1 or IC 3-13-2-8."

**City Judges in
Anderson City Court, Carmel City Court, a City Court Located in Lake County,
Muncie City Court, and Noblesville City Court**

IC 3-8-1-28.5 provides that:

“...(d)...Before a candidate for the office of judge of the court may file a: (1) declaration of candidacy or petition of nomination; (2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or (3) declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12; the candidate must be an attorney in good standing admitted to the practice of law in Indiana.”

B. Democratic and Republican Party Candidates Nominated at the Primary Election

1. Filing Requirements

Candidates for city offices from the Democratic or Republican Party will be nominated at the primary election to be held on Tuesday, May 6, 2003.

A candidate for the nomination for the office of mayor, city-county council member, city common council member, city clerk, city clerk-treasurer, or city judge by the Democratic or Republican Party must file a declaration of candidacy with the county election board. (IC 3-8-2-5) (Petitions signed by registered voters are **NOT** required of Democratic or Republican Party candidates for city offices.)

The **first day** for a candidate for a city office to submit a declaration of candidacy to the county election board is **Wednesday, January 22, 2003**, and the **DEADLINE** to file is **12:00 noon, prevailing local time, Friday, February 21, 2003**. (IC 3-8-2-4; IC 3-8-2-5) **A declaration of candidacy filed after February 21, 2003 at 12:00 noon will not be considered valid.**

The declaration of candidacy form (CAN-42) is available from the Election Division's office and each circuit court clerk's office. A CAN-42 is included in this Guide under the *Candidate Forms* tab.

2. Candidate Withdrawal Requirements

Primary Election Candidate Withdrawal

A candidate for a city office who filed with the county election board a declaration of candidacy for the primary election, may file written notice of candidate withdrawal with the county election board certifying that the individual no longer wishes to be a candidate. The **DEADLINE** to file this notice is **12:00 noon, prevailing local time, Friday, February 21, 2003**. (IC 3-8-2-20) Upon receipt of this notice, the county election board will **not** certify that individual's name as a candidate for the primary election. (IC 3-8-2-21) **Notice of candidate withdrawal filed after February 21, 2003 at 12:00 noon will not be considered valid.**

The primary election candidate withdrawal form (CAN-43) is available from the Election Division's office and each circuit court clerk's office. A CAN-43 is included in this Guide under the *Candidate Forms* tab.

Municipal Election Candidate Withdrawal

After the primary, if a nominee for a city office wishes to withdraw from the municipal election ballot, the nominee must file a written notice of candidate withdrawal with the county election board. The **DEADLINE** to file this notice is **12:00 noon, prevailing local time, on Tuesday, July 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will **not** certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after July 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

C. Libertarian Party Candidates

1. Filing Requirements

Libertarian Party candidates are not nominated in a primary election, but are nominated by political party convention. (IC 3-8-4-10)

The Libertarian Party will nominate candidates for city offices at the Party's city conventions. (IC 3-10-6-12) Candidates for these offices should contact the Libertarian Party's state committee for information concerning any candidate filing requirements.

Libertarian Party candidates for city offices are **not** required to file declarations of candidacy with the county election board. Instead, the Libertarian Party chair and secretary will certify the Party's nominees to the county election board no later than **noon, August 28, 2003**.

2. Candidate Withdrawal Requirements

If a nominee for a city office wishes to withdraw from the Libertarian Party ticket for the municipal election, the nominee must file a written notice of candidate withdrawal with the county election board. The **DEADLINE** to file this notice is **12:00 noon, prevailing local time, on Tuesday, July 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will not certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after July 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

D. Minor Party and Independent Candidates

1. Filing Requirements

This section addresses the filing and petition requirements for a person who does not intend to affiliate with the Democratic, Libertarian or Republican Party, and who does not intend to be a write-in candidate.

A person who wishes to become an independent candidate or a candidate of a minor party not qualified to nominate candidates in a primary election or by political party convention, and who wishes to be a candidate for a city office at the municipal election, must file a written consent to become a candidate for the city office (CAN-45 form) and a petition of nomination (CAN-44 form) with the county election board. (IC 3-8-6-12; IC 3-8-6-14(a))

More than one minor party candidate can be nominated on the same petition form if each of the candidates is seeking an office that serves the entire city (mayor, clerk and at large council member, for example). If offices serve different legislative districts (such as city common council members elected only by voters of a specific district), then the candidates for office must use separate petition forms. More than one independent candidate for city office cannot be nominated on the same petition form. (IC 3-8-6-4)

Each candidate nominated by petition of nomination must satisfy all statutory eligibility requirements for the office for which the candidate is nominated. (IC 3-8-6-14)

The written consent form (CAN-45) and petition of nomination form (CAN-44) are available from the Election Division's office and each circuit court clerk's office. A CAN-44 and CAN-45 are included in this Guide under the *Candidate Forms* tab.

In order to be placed on the municipal election ballot, an independent or minor party candidate must obtain signatures of registered voters in the election district the candidate seeks to represent. A petition of nomination must be signed by the number of registered voters equal to 2% of the total votes cast for secretary of state in the 2002 general election **in the election district** the candidate seeks to represent. Any fraction in excess of a whole number is disregarded in computing this figure. (IC 3-8-6-3) Signatures on any petition of nomination must be those of registered voters of the state who reside in the district the candidate seeks to represent. (IC 3-8-6-2)

EXAMPLE: A candidate for the office of city council member must obtain signatures of registered voters equal to 2% of the total votes cast for all candidates for secretary of state in the 2002 general election in that city council district.

Circuit court clerks should have information on the votes by precinct for the office of secretary of state in the 2002 general election to help determine the number of signatures required for a candidate seeking ballot placement by petition of nomination. However, the candidate may be required to make an initial calculation of the number of votes cast for secretary of state within the city council district, or the city as a whole. In some cases, there may not be an exact match between city council districts and precinct boundaries, so a precise minimum number of signatures necessary for ballot access may be impossible to calculate. Candidates seeking nomination by petition may wish to use a higher figure based on the votes cast for this office in all precincts **wholly or partially** within the city or city council district to ensure that the candidate has a sufficient number of valid signatures.

For a petition of nomination to be considered valid, the county voter registration office in the county where the individual signing the petition is registered must certify whether each person who signs the petition is a registered voter in the county. This certification must accompany and be a part of the petition of nomination. (This certification is on the reverse side of the CAN-44 form.) (IC 3-8-6-10; IC 3-8-6-11)

The **first day** a candidate for a city office may submit the petition of nomination, accompanied by the written consent form (CAN-45) to the county voter registration office for certification is **Wednesday, January 1, 2003** and the **DEADLINE** for filing is **12:00 noon, prevailing local time, Monday, June 30, 2003**. (IC 3-8-6-12)

For candidates for city offices, once the county voter registration office certifies the petitions of nomination, these certified petitions along with the candidate's consent (CAN-45 form) must be filed with the county election board. The **DEADLINE** for filing the petition of nomination (CAN-44), accompanied by the written consent form (CAN-45) with the county election board is **12:00 noon, prevailing local time, Tuesday, July 15, 2003**. (IC 3-8-6-10; IC 3-8-6-12) The county voter registration office must file the certified petitions of nomination with the county election board. However, the candidate for a city office may request that the county voter registration office return the original petitions to the candidate so that the candidate may file the certified petitions (along with the CAN-45 form) with the county election board to be placed on the municipal election ballot. (IC 3-8-6-10)

2. Nominating Petition Requirements

Candidates or political party members may wish to contact county voter registration offices to coordinate the processing of nominating petitions. Some county offices prefer to process all petitions for a candidate at the same time, while others are willing to process partial submissions.

Sometimes a county voter registration office rejects a signature on a nominating petition because the individual who signed the petition is not a registered voter in the county, or has changed the individual's address without notifying the county voter registration office. Although a minor variation between the name or address of a petition signer and the name or address on the county voter registration records does not invalidate the signature, a substantial variation renders the signature invalid. Reasonable doubts must be resolved in favor of the signer of the petition. (IC 3-5-6)

3. Political Party Names

A candidate may not submit a petition of nomination requesting ballot placement for a political party whose name would result in voter confusion due to its similarity with another party's name. If the candidate declines to amend the petition to remove this confusion, the petition shall be denied. (IC 3-8-6-5.5)

4. Candidate Withdrawal Requirements

The **DEADLINE** for a person nominated by petition for a city office who wishes to withdraw from the municipal election ballot to file a written notice of candidate withdrawal with the county election board is **12:00 noon, prevailing local time, on Tuesday, July 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will not certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after July 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

E. Write-in Candidates

1. Filing Requirements

Indiana law provides that only votes for declared write-in candidates are counted. (IC 3-12-1-1.7(a))

A person who desires to be a write-in candidate for a city office in the municipal election on Tuesday, November 4, 2003 must file a declaration of intent to be a write-in candidate (CAN-51 form) with the county election board. (IC 3-8-2-2.5)

The CAN-51 form is available from the Election Division's office and each circuit court clerk's office. A CAN-51 is included in this Guide under the *Candidate Forms* tab.

The **first day** a write-in candidate may file the CAN-51 form with the county election board is **Wednesday, August 6, 2003** and the **DEADLINE** for filing is **12:00 noon, prevailing local time, Monday, September 15, 2003**. (IC 3-8-2-2.5; IC 3-8-2-4; IC 3-8-2-5; IC 3-11-2-11.5)

2. Candidate Withdrawal Requirements

The **DEADLINE** for a person who files a declaration of intent to be a write-in candidate for a city office to file a written notice of candidate withdrawal with the county election board is **12:00 noon, prevailing local time, on Monday, September 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will not certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after September 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

3. Political Party Affiliation

A write-in candidate may claim affiliation with a political party. Indiana Code 3-8-2-7 sets forth the standard for determining the political party affiliation of a candidate who files a declaration of candidacy as a candidate affiliated with the Democratic or Republican party. The political party affiliation of this candidate is deemed to be:

- (1) the political party in whose primary the candidate most recently voted; or
- (2) the political party of the county chair who certifies that the candidate is a member of that political party.

If a candidate has never voted in a primary election, the political party claimed by the candidate determines the candidate's party affiliation. (IC 3-8-2-7)

However, if a write-in candidate claims affiliation with a political party: (1) that already has ballot access, (2) of a candidate who has previously filed a petition of nomination under IC 3-8-6, or (3) whose name would result in voter confusion due to its similarity with the name of the political party in (1) or (2), then a registered voter of the election district may question the validity of the filing under IC 3-8-1-2. The county election board shall determine the validity of the questioned filing. If the county election board determines that the candidate's stated party affiliation would result in voter confusion due to its similarity with another party's name, and the candidate declines to amend the declaration to remove this confusion, then the board shall deny the filing. (IC 3-8-2-12.5)

“LARGE TOWN” OFFICES

TOWN COUNCIL MEMBER TOWN CLERK-TREASURER TOWN JUDGE

The election procedures in this chapter apply to candidates for town offices in any of the following types of town:

- (1) A town with a population of 3,500 or more (excluding prison inmates from that count)
- (2) A town of any population located wholly or partially within Marion County
- (3) A town with a population of less than 3,500 which has passed an ordinance to nominate major party candidates by municipal primary election

For the purposes of this *Guide*, these towns will be referred to as “large towns.” Election procedures in any of these large towns are essentially identical to those used in cities. However, different offices are elected in these towns as part of the town government structure.

Municipal Primaries

In towns with a population of **3,500 or more**, a municipal primary is the method state law provides for nominating major party candidates. No ordinance or other action by the town council is necessary for a municipal primary to be conducted in these towns.

In contrast, a town with a population of **less than 3,500** must adopt an ordinance to provide for the nomination of Democratic and Republican candidates for town office in a primary election (instead of by town convention). After the town council passes an ordinance to provide for a municipal primary, then major party candidates in that town will be nominated under the procedures outlined below for “large towns.” The town council must adopt this ordinance not later than January 1 of the year in which the municipal election is held (2003). The town clerk-treasurer must file a copy of the ordinance with the office of the circuit court clerk of the county that contains the greatest percentage of the town’s population. (IC 3-8-5-2)

If the town council adopts a municipal primary ordinance, then the county election board conducts the primary election for the town according to the statutes governing primary elections, including the times for filing a declaration of candidacy under IC 3-8-2-4.

If a town adopts an ordinance providing for a municipal primary, the town may not change the method of nominating candidates for town office more than one time in any twelve year period. (IC 3-8-5-2(e))

A. Qualifications

1. Town Council Members

Each town is required to elect a town council. (IC 36-5-2)

IC 3-8-1-1 provides that:

“... (b) A person is not qualified to run for... (2) A local office... unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination.”

IC 3-8-1-5(b)(3) provides that:

“A person is disqualified from holding or being a candidate for an elected office if the person...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony.”

IC 3-8-1-29 provides that:

“A candidate for membership of a town council must reside in the district in which seeking election, if applicable.”

Number of Town Council Members

In a town, the town council consists of at least 3 members, but no more than 7 members. The number of town council members in each town was originally set by the county commissioners when the commissioners incorporated the town under IC 36-5-1-10.1. The number of town council members can be increased or decreased within this range only after the voters of the town approve a proposal to do so at a referendum. (IC 36-5-2-4.2)

Election Schedule

As a general rule, all town council members are elected for four year terms at each municipal election year (1999, 2003, etc.). (IC 3-10-6-2) However, a town can alter this election schedule by adopting one of several types of ordinances permitted under state law.

A town may adopt an ordinance to provide for “staggered terms” for town council members by providing that at the next municipal election, some council members will be elected for three year terms, and the other council members will be elected for four year terms. After the first “short terms” for town council members are over, this system results in the town electing some town council members in the “non-presidential general election year” (1998, 2002), and the other town council members in the ordinary municipal election years (1999, 2003). (IC 3-10-6-2.5)

Some towns adopted similar “staggered term” ordinances under state laws that have since been repealed, or have expired (IC 18-3-1-16(b), repealed 1981; P.L. 13-1982, SECTION 3, expired 1988). These towns have the additional option of adopting an ordinance to move the election date for all town offices (including town council) to the “presidential general election year” (2000, 2004). (IC 3-10-6-3) This changeover is accomplished by electing all town officers to a “short term” of one year at the municipal election (1999, 2003), and then electing successors to a full four year term.

Consult with the town clerk-treasurer or town attorney for more information about any such ordinances.

In some “large towns” there may be no more than one nominee for each office, and no declared write-in candidates for any town office. When this occurs, a municipal election may not be held for these offices in the municipal election year (1999, 2003). (IC 3-10-6-7.6) The individuals currently serving in these town offices automatically serve another four year term as “holdovers” under Article 15, Section 3 of the Constitution of the State of Indiana. However, if the town has shifted the election schedule for some or all of these offices to a general election year, any town candidates will be placed on the general election ballot, even if all town candidates are unopposed.

Districts

As a general rule, town council members in large towns must be elected from districts. The number and boundaries of these districts were originally set by the county commissioners when the town was incorporated by the commissioners.

In a town with a population of less than 3,500, the town council may adopt an ordinance to abolish town council districts. If this town has also adopted an ordinance to nominate major party candidates for town office by primary election, then all town council candidates in this town will run at large. (IC 36-5-2-4.1(h))

In other towns, the town council must adopt an ordinance to reestablish town council district boundaries in 2002 and each ten years after a U.S. census is conducted. (IC 36-5-2-4.1(g))

The town must specify by ordinance how town council members are to be elected from these districts. The ordinance may provide: (1) that all council members must reside in their districts, but are to be elected at large by all the voters of the town; (2) that all council members must reside in their districts, but to be elected only by the voters of that district; or (3) for some combination of (1) and (2) specified by the ordinance. (IC 36-5-2-5) Consult with the town clerk-treasurer or town attorney for more information about any such ordinances.

A special procedure can also be used in towns that have a population of more than 10,000. The town council can adopt an ordinance to provide that the council consists of 7 members (5 elected by the voters of each of 5 town council districts, and 2 members elected at large by all the voters of the town).

The ordinance must also provide for 4 of the 7 members to be elected in a municipal election year (1999, 2003), and for the remaining 3 members to be elected either in the previous general election year (1998, 2002), or the following general election year (2000, 2004). The 2 at large members may not be elected during the same election year. (IC 36-5-2-4.5)

Consult with the town clerk-treasurer or town attorney for more information about any such ordinances.

2. Town Clerk-Treasurer

Each town is required to elect a town clerk-treasurer. The town clerk-treasurer is elected by all the voters of the town. (IC 36-5-6-4)

IC 3-8-1-1 provides that:

“... (b) A person is not qualified to run for... (2) A local office... unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination.”

IC 3-8-1-5(b)(3) provides that:

“A person is disqualified from holding or being a candidate for an elected office if the person...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony.”

3. Town Judge

Each town is required to elect a town judge if the town has created a town court by ordinance. (IC 33-10.1-1-3) The town judge is elected by all the voters of the town. (IC 33-10.1-3-1.1)

IC 3-8-1-1 does not apply to a candidate for judge of a town court.

IC 3-8-1-1.5 provides that:

“... (b) A person is not qualified to run for [town court judge] unless not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination, the person is registered to vote in a county in which the municipality is located.”

IC 3-8-1-5(b)(3) provides that:

“A person is disqualified from holding or being a candidate for an elected office if the person...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony.”

Town Judges in Avon Town Court, Brownsburg Town Court, a Town Court Located in Lake County, and Plainfield Town Court

IC 3-8-1-29.5 provides that:

“... (d)... Before a candidate for the office of judge of the court may file a: (1) declaration of candidacy or petition of nomination; (2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or (3) declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12; the candidate must be an attorney in good standing admitted to the practice of law in Indiana.”

B. Democratic and Republican Party Candidates Nominated at the Primary Election

1. Filing Requirements

Candidates for town offices from the Democratic or Republican Party will be nominated at the primary election to be held on Tuesday, May 6, 2003.

A candidate for the nomination for the office of town council member, town clerk-treasurer, or town judge by the Democratic or Republican Party must file a declaration of candidacy with the county election board. (IC 3-8-2-5) (Petitions signed by registered voters are **NOT** required of Democratic or Republican Party candidates for town offices.)

The **first day** for a candidate for a town office to submit a declaration of candidacy to the county election board is **Wednesday, January 22, 2003**, and the **DEADLINE** to file is **12:00 noon, prevailing local time, Friday, February 21, 2003**. (IC 3-8-2-4; IC 3-8-2-5) **A declaration of candidacy filed after February 21, 2003 at 12:00 noon will not be considered valid.**

The declaration of candidacy form (CAN-42) is available from the Election Division's office and each circuit court clerk's office. A CAN-42 is included in this Guide under the *Candidate Forms* tab.

2. Candidate Withdrawal Requirements

Primary Election Candidate Withdrawal

A candidate for a town office who filed with the county election board a declaration of candidacy for the primary election, may file written notice of candidate withdrawal with the county election board certifying that the individual no longer wishes to be a candidate. The **DEADLINE** to file this notice is **12:00 noon, prevailing local time, Friday, February 21, 2003**. (IC 3-8-2-20) Upon receipt of this notice, the county election board will **not** certify that individual's name as a candidate for the primary election. (IC 3-8-2-21) **Notice of candidate withdrawal filed after February 21, 2003 at 12:00 noon will not be considered valid.**

The primary election candidate withdrawal form (CAN-43) is available from the Election Division's office and each circuit court clerk's office. A CAN-43 is included in this Guide under the *Candidate Forms* tab.

Municipal Election Candidate Withdrawal

After the primary, if a nominee for a town office wishes to withdraw from the municipal election ballot, the nominee must file a written notice of candidate withdrawal with the county election board. The **DEADLINE** to file this notice is **12:00 noon, prevailing local time, on Tuesday, July 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will **not** certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after July 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

C. Libertarian Party Candidates

1. Filing Requirements

Libertarian Party candidates are not nominated in a primary election, but are nominated by political party convention. (IC 3-8-4-10)

The Libertarian Party will nominate candidates for town offices at the Party's town conventions. (IC 3-10-6-12) Candidates for these offices should contact the Libertarian Party's state committee for information concerning any candidate filing requirements.

Libertarian Party candidates for town offices are **not** required to file declarations of candidacy with the county election board. Instead, the Libertarian Party chair and secretary will certify the Party's nominees to the county election board no later than **noon, August 28, 2003**.

2. Candidate Withdrawal Requirements

If a nominee for a town office wishes to withdraw from the Libertarian Party ticket for the municipal election, the nominee must file a written notice of candidate withdrawal with the county election board. The **DEADLINE** to file this notice is **12:00 noon, prevailing local time, on Tuesday, July 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will not certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after July 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

D. Minor Party and Independent Candidates

1. Filing Requirements

This section addresses the filing and petition requirements for a person who does not intend to affiliate with the Democratic, Libertarian or Republican Party, and who does not intend to be a write-in candidate.

A person who wishes to become an independent candidate or a candidate of a minor party not qualified to nominate candidates in a primary election or by political party convention, and who wishes be a candidate for a town office at the municipal election, must file a written consent to become a candidate for the town office (CAN-45 form) and a petition of nomination (CAN-44 form) with the county election board. (IC 3-8-6-12; IC 3-8-6-14(a))

More than one minor party candidate can be nominated on the same petition form if each of the candidates is seeking an office that serves the entire town (town clerk-treasurer and at large council member, for example). If offices serve different legislative districts (such as town council members elected only by voters of a specific district), then the candidates for office must use separate petition forms. More than one independent candidate for town office cannot be nominated on the same petition form. (IC 3-8-6-4)

Each candidate nominated by petition of nomination must satisfy all statutory eligibility requirements for the office for which the candidate is nominated. (IC 3-8-6-14)

The written consent form (CAN-45) and petition of nomination form (CAN-44) are available from the Election Division's office and each circuit court clerk's office. A CAN-44 and CAN-45 are included in this Guide under the *Candidate Forms* tab.

In order to be placed on the municipal election ballot, an independent or minor party candidate must obtain signatures of registered voters in the election district the candidate seeks to represent. A petition of nomination must be signed by the number of registered voters equal to 2% of the total votes cast for secretary of state in the 2002 general election **in the election district** the candidate seeks to represent. Any fraction in excess of a whole number is disregarded in computing this figure. (IC 3-8-6-3) Signatures on any petition of nomination must be those of registered voters of the state who reside in the district the candidate seeks to represent. (IC 3-8-6-2)

EXAMPLE: A candidate for the office of town council member must obtain signatures of registered voters equal to 2% of the total votes cast for all candidates for secretary of state in the 2002 general election in that town council district.

Circuit court clerks should have information on the votes by precinct for the office of secretary of state in the 2002 general election to help determine the number of signatures required for a candidate seeking ballot placement by petition of nomination. However, the candidate may be required to make an initial calculation of the number of votes cast for secretary of state within the town council district, or the town as a whole. In some cases, there may not be an exact match between town council districts and precinct boundaries, so a precise minimum number of signatures necessary for ballot access may be impossible to calculate. Candidates seeking nomination by petition may wish to use a higher figure based on the votes cast for this office in all precincts **wholly or partially** within the town or town council district to ensure that the candidate has a sufficient number of valid signatures.

For a petition of nomination to be considered valid, the county voter registration office in the county where the individual signing the petition is registered must certify whether each person who signs the petition is a registered voter in the county. This certification must accompany and be a part of the petition of nomination. (This certification is on the reverse side of the CAN-44 form.) (IC 3-8-6-10; IC 3-8-6-11)

The **first day** a candidate for a town office may submit the petition of nomination, accompanied by the written consent form (CAN-45) to the county voter registration office for certification is **Wednesday, January 1, 2003** and the **DEADLINE** for filing is **12:00 noon, prevailing local time, Monday, June 30, 2003**. (IC 3-8-6-12)

For candidates for town offices, once the county voter registration office certifies the petitions of nomination, these certified petitions along with the candidate's consent (CAN-45 form) must be filed with the county election board. The **DEADLINE** for filing the petition of nomination (CAN-44), accompanied by the written consent form (CAN-45) with the county election board is **12:00 noon, prevailing local time, Tuesday, July 15, 2003**. (IC 3-8-6-10; IC 3-8-6-12) The county voter registration office must file the certified petitions of nomination with the county election board. However, the candidate for a town office may request that the county voter registration office return the original petitions to the candidate so that the candidate may file the certified petitions (along with the CAN-45 form) with the county election board to be placed on the municipal election ballot. (IC 3-8-6-10)

2. Nominating Petition Requirements

Candidates or political party members may wish to contact county voter registration offices to coordinate the processing of nominating petitions. Some county offices prefer to process all petitions for a candidate at the same time, while others are willing to process partial submissions.

Sometimes a county voter registration office rejects a signature on a nominating petition because the individual who signed the petition is not a registered voter in the county, or has changed the individual's address without notifying the county voter registration office. Although a minor variation between the name or address of a petition signer and the name or address on the county voter registration records does not invalidate the signature, a substantial variation renders the signature invalid. Reasonable doubts must be resolved in favor of the signer of the petition. (IC 3-5-6)

3. Political Party Names

A candidate may not submit a petition of nomination requesting ballot placement for a political party whose name would result in voter confusion due to its similarity with another party's name. If the candidate declines to amend the petition to remove this confusion, the petition shall be denied. (IC 3-8-6-5.5)

4. Candidate Withdrawal Requirements

The **DEADLINE** for a person nominated by petition for a town office who wishes to withdraw from the municipal election ballot to file a written notice of candidate withdrawal with the county election board is **12:00 noon, prevailing local time, on Tuesday, July 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will not certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after July 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

E. Write-in Candidates

1. Filing Requirements

Indiana law provides that only votes for declared write-in candidates are counted. (IC 3-12-1-1.7(a))

A person who desires to be a write-in candidate for a town office in the municipal election on Tuesday, November 4, 2003 must file a declaration of intent to be a write-in candidate (CAN-51 form) with the county election board. (IC 3-8-2-2.5)

The CAN-51 form is available from the Election Division's office and each circuit court clerk's office. A CAN-51 is included in this Guide under the *Candidate Forms* tab.

The **first day** a write-in candidate may file the CAN-51 form with the county election board is **Wednesday, August 6, 2003** and the **DEADLINE** for filing is **12:00 noon, prevailing local time, Monday, September 15, 2003**. (IC 3-8-2-2.5; IC 3-8-2-4; IC 3-8-2-5; IC 3-11-2-11.5)

2. Candidate Withdrawal Requirements

The **DEADLINE** for a person who files a declaration of intent to be a write-in candidate for a town office to file a written notice of candidate withdrawal with the county election board is **12:00 noon, prevailing local time, on Monday, September 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will not certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after September 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

3. Political Party Affiliation

A write-in candidate may claim affiliation with a political party. Indiana Code 3-8-2-7 sets forth the standard for determining the political party affiliation of a candidate who files a declaration of candidacy as a candidate affiliated with the Democratic or Republican party. The political party affiliation of this candidate is deemed to be:

- (1) the political party in whose primary the candidate most recently voted; or
- (2) the political party of the county chair who certifies that the candidate is a member of that political party.

If a candidate has never voted in a primary election, the political party claimed by the candidate determines the candidate's party affiliation. (IC 3-8-2-7)

However, if a write-in candidate claims affiliation with a political party: (1) that already has ballot access, (2) of a candidate who has previously filed a petition of nomination under IC 3-8-6, or (3) whose name would result in voter confusion due to its similarity with the name of the political party in (1) or (2), then a registered voter of the election district may question the validity of the filing under IC 3-8-1-2. The county election board shall determine the validity of the questioned filing. If the county election board determines that the candidate's stated party affiliation would result in voter confusion due to its similarity with another party's name, and the candidate declines to amend the declaration to remove this confusion, then the board shall deny the filing. (IC 3-8-2-12.5)

“Small Town” Offices

Town Council Member Town Clerk-Treasurer Town Judge

The election procedures in this chapter apply to candidates for town offices in a town with a population of 3,500 or more (excluding prison inmates from that count).

The towns using the procedures described in this chapter will be referred to as “small towns.”

The procedures in this chapter **do not apply** to either of the following types of towns:

- (1) A town of any population located wholly or partially within Marion County
- (2) A town with a population of less than 3,500 which has passed an ordinance to nominate major party candidates by municipal primary election

Municipal Primaries

A town with a population of less than 3,500 may adopt an ordinance to provide for a nomination of Democratic and Republican candidates for town office in a primary election (instead of by town convention). If the town has adopted such an ordinance, please refer to the previous chapter on “Large Town” Offices for candidate information.

A. Qualifications

1. Town Council Member

Each town is required to elect a town council. (IC 36-5-2)

IC 3-8-1-1 provides that:

“... (b) A person is not qualified to run for... (2) A local office... unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination.”

IC 3-8-1-5(b)(3) provides that:

“A person is disqualified from holding or being a candidate for an elected office if the person...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony.”

IC 3-8-1-29 provides that:

“A candidate for membership of a town council must reside in the district in which seeking election, if applicable.”

Number of Town Council Members

In a town, the town council consists of at least 3 members, but no more than 7 members. The number of town council members in each town was originally set by the county commissioners when the commissioners incorporated the town under IC 36-5-1-10.1. The number of town council members can be increased or decreased within this range only after the voters of the town approve a proposal to do so at a referendum. (IC 36-5-2-4.2)

Election Schedule

As a general rule, all town council members are elected for four year terms at each municipal election year (1999, 2003, etc.). (IC 3-10-7-6) However, a town can alter this election schedule by adopting one of several types of ordinances permitted under state law.

A town may adopt an ordinance to provide for “staggered terms” for town council members by providing that at the next municipal election, some council members will be elected for three year terms, and the other council members will be elected for four year terms. After the first “short terms” for town council members are over, this system results in the town electing some town council members in the “non-presidential general election year” (1998, 2002), and the other town council members in the ordinary municipal election years (1999, 2003). (IC 3-10-6-2.5)

Some towns adopted similar “staggered term” ordinances under state laws that have since been repealed, or have expired (IC 18-3-1-16(b), repealed 1981; P.L. 13-1982, SECTION 3, expired 1988). These towns have the additional option of adopting an ordinance to move the election date for all town offices (including town council) to the “presidential general election year” (2000, 2004). (IC 3-10-6-3) This changeover is accomplished by electing all town officers to a “short term” of one year at the municipal election (1999, 2003), and then electing successors to a full four year term.

Consult with the town clerk-treasurer or town attorney for more information about any such ordinances.

In some “small towns” there may be no more than one nominee for each office, and no declared write-in candidates for any town office. When this occurs, a municipal election may not be held for these offices in the municipal election year (1999, 2003). (IC 3-10-6-7.6) The individuals currently serving in these town offices automatically serve another four year term as “holdovers” under Article 15, Section 3 of the Constitution of the State of Indiana. However, if the town has shifted the election schedule for some or all of these offices to a general election year, any town candidates will be placed on the general election ballot, even if all town candidates are unopposed.

Districts

As a general rule, town council members in small towns must be elected from districts. The number and boundaries of these districts were originally set by the county commissioners when the town was incorporated by the commissioners.

In a town with a population of less than 3,500, the town council may adopt an ordinance to abolish town council districts. If this town has also adopted an ordinance to nominate major party candidates for town office by primary election, then all town council candidates in this town will run at large. (IC 36-5-2-4.1(h))

In other towns, the town council must adopt an ordinance to reestablish town council district boundaries in 2002 and each ten years after a U.S. census is conducted. (IC 36-5-2-4.1(g))

The town must specify by ordinance how town council members are to be elected from these districts. The ordinance may provide: (1) that all council members must reside in their districts, but are to be elected at large by all the voters of the town; (2) that all council members must reside in their districts, but to be elected only by the voters of that district; or (3) for some combination of (1) and (2) specified by the ordinance. (IC 36-5-2-5) Consult with the town clerk-treasurer or town attorney for more information about any such ordinances.

2. Town Clerk-Treasurer

Each town is required to elect a town clerk-treasurer. The town clerk-treasurer is elected by all the voters of the town. (IC 36-5-6-4)

IC 3-8-1-1 provides that:

“... (b) A person is not qualified to run for... (2) A local office... unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination.”

IC 3-8-1-5(b)(3) provides that:

“A person is disqualified from holding or being a candidate for an elected office if the person...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony.”

3. Town Judge

Each town is required to elect a town judge if the town has created a town court by ordinance. (IC 33-10.1-1-3) The town judge is elected by all the voters of the town. (IC 33-10.1-3-1.1)

IC 3-8-1-1 does not apply to a candidate for judge of a town court.

IC 3-8-1-1.5 provides that:

“... (b) A person is not qualified to run for [town court judge] unless not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination, the person is registered to vote in a county in which the municipality is located.”

IC 3-8-1-5(b)(3) provides that:

“A person is disqualified from holding or being a candidate for an elected office if the person...[h]as (A) Entered a plea of guilty or nolo contendere to; or (B) Been convicted of; a felony.”

Town Judges in Avon Town Court, Brownsburg Town Court, a Town Court Located in Lake County, and Plainfield Town Court

IC 3-8-1-29.5 provides that:

“... (d)... Before a candidate for the office of judge of the court may file a: (1) declaration of candidacy or petition of nomination; (2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or (3) declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12; the candidate must be an attorney in good standing admitted to the practice of law in Indiana.”

B. Democratic, Libertarian, and Republican Party Candidates Nominated At Town Conventions

1. Filing Requirements

A candidate for nomination to a town office by the Democratic, Libertarian, or Republican Party must file a declaration of candidacy with the county election board. (IC 3-8-2-6)

Whenever the election district for a town office includes more than one county, the declaration of candidacy must be filed with the county election board located in the county seat of the county that contains the greatest percentage of population of the election district. (IC 3-8-2-6)

Candidate Filing Deadlines

The **first day** to file a declaration of candidacy for office in a small town is **Wednesday, January 1, 2003**, and the **DEADLINE** to file is **12:00 noon, prevailing local time, on Friday, August 1, 2003**.

The town office declaration of candidacy form (CAN-16) is available from the Election Division's office and each circuit court clerk's office. A CAN-16 is included in this Guide under the Candidate's Forms tab.

Town Convention Candidate Filing Deadlines

Wednesday, August 20, 2003 is the last day for the Democratic, Libertarian, and Republican parties to conduct a town convention to choose between competing candidates in the same party for the same town office. (IC 3-8-5-10; IC 3-8-5-17)

Thursday, August 28, 2003, by 12:00 noon, prevailing local time, is the last day for the Democratic, Libertarian, and Republican party chairman and secretary of a town convention to file a certificate of candidate selection with the county election board setting forth the nominees of the Democratic, Libertarian, or Republican party town convention. (IC 3-8-5-13; IC 3-8-5-17)

2. Candidate Withdrawal Requirements

Municipal Election Candidate Withdrawal

Friday, August 1, 2003, by 12:00 noon, prevailing local time is the **DEADLINE** an individual may file a notice of withdrawal of a declaration of candidacy previously filed with the county election board to be the nominee of the Democratic, Libertarian, or Republican Party for town office in a small town. (IC 3-8-5-10.5; IC 3-8-5-17) **Notice to withdraw candidacy filed after August 1, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate's Forms* tab.

Town Convention Candidate Withdrawal

Monday, August 25, 2003, by 12:00 noon, prevailing local time is the **DEADLINE** for a candidate nominated at a Democratic, Libertarian, or Republican town convention to file a notice of withdrawal with the county election board. (IC 3-8-5-14.5; IC 3-8-5-17) **A notice to withdraw filed after August 25, 2003 at 12:00 noon will not be considered valid.**

There is no state-approved town office convention candidate withdrawal form. The CAN-43 form can be adapted for this purpose. A CAN-43 is included in this Guide under the *Candidate's Forms* tab.

C. Minor Party and Independent Candidates

1. Filing Requirements

This section addresses the filing and petition requirements for a person who does not intend to affiliate with the Democratic, Libertarian or Republican Party, and who does not intend to be a write-in candidate.

A person who wishes to become an independent candidate or a candidate of a minor party not qualified to nominate candidates in a primary election or by political party convention, and who wishes be a candidate for a town office at the municipal election, must file a written consent to become a candidate for the town office (CAN-45 form) and a petition of nomination (CAN-44 form) with the county election board. (IC 3-8-6-12; IC 3-8-6-14(a)).

More than one minor party candidate can be nominated on the same petition form if each of the candidates is seeking an office that serves the entire town (town clerk-treasurer and at large council member, for example). If offices serve different legislative districts (such as town council members elected only by voters of a specific district), then the candidates for office must use separate petition forms. More than one independent candidate for town office cannot be nominated on the same petition form. (IC 3-8-6-4)

Each candidate nominated by petition of nomination must satisfy all statutory eligibility requirements for the office for which the candidate is nominated. (IC 3-8-6-14)

The written consent form (CAN-45) and petition of nomination form (CAN-44) are available from the Election Division's office and each circuit court clerk's office. A CAN-44 and CAN-45 are included in this Guide under the *Candidate Forms* tab.

In order to be placed on the municipal election ballot, an independent or minor party candidate must obtain signatures of registered voters in the election district the candidate seeks to represent. A petition of nomination must be signed by the number of registered voters equal to 2% of the total votes cast for secretary of state in the 2002 general election **in the election district** the candidate seeks to represent. Any fraction in excess of a whole number is disregarded in computing this figure. (IC 3-8-6-3) Signatures on any petition of nomination must be those of registered voters of the state who reside in the district the candidate seeks to represent. (IC 3-8-6-2)

EXAMPLE: A candidate for the office of town council member must obtain signatures of registered voters equal to 2% of the total votes cast for all candidates for secretary of state in the 2002 general election in that town council district.

Circuit court clerks should have information on the votes by precinct for the office of secretary of state in the 2002 general election to help determine the number of signatures required for a candidate seeking ballot placement by petition of nomination. However, the candidate may be required to make an initial calculation of the number of votes cast for secretary of state within the town council district, or the town as a whole. In some cases, there may not be an exact match between town council districts and precinct boundaries, so a precise minimum number of signatures necessary for ballot access may be impossible to calculate. Candidates seeking nomination by petition may wish to use a higher figure based on the votes cast for this office in all precincts **wholly or partially** within the town or town council district to ensure that the candidate has a sufficient number of valid signatures.

For a petition of nomination to be considered valid, the county voter registration office in the county where the individual signing the petition is registered must certify whether each person who signs the petition is a registered voter in the county. This certification must accompany and be a part of the petition of nomination. (This certification is on the reverse side of the CAN-44 form.) (IC 3-8-6-10; IC 3-8-6-11)

The **first day** a candidate for a town office may submit the petition of nomination, accompanied by the written consent form (CAN-45) to the county voter registration office for certification is **Wednesday, January 1, 2003** and the **DEADLINE** for filing is **12:00 noon, prevailing local time, Monday June 30, 2003**. (IC 3-8-6-12)

For candidates for town offices, once the county voter registration office certifies the petitions of nomination, these certified petitions along with the candidate's consent (CAN-45 form) must be filed with the county election board. The **DEADLINE** for filing the petition of nomination (CAN-44), accompanied by the written consent form (CAN-45) with the county election board is **12:00 noon, prevailing local time, Tuesday, July 15, 2003**. (IC 3-8-6-10; IC 3-8-6-12) The county voter registration office must file the certified petitions of nomination with the county election board. However, the candidate for a town office may request that the county voter registration office return the original petitions to the candidate so that the candidate may file the certified petitions (along with the CAN-45 form) with the county election board to be placed on the municipal election ballot. (IC 3-8-6-10)

2. Nominating Petition Requirements

Candidates or political party members may wish to contact county voter registration offices to coordinate the processing of nominating petitions. Some county offices prefer to process all petitions for a candidate at the same time, while others are willing to process partial submissions.

Sometimes a county voter registration office rejects a signature on a nominating petition because the individual who signed the petition is not a registered voter in the county, or has changed the individual's address without notifying the county voter registration office. Although a minor variation between the name or address of a petition signer and the name or address on the county voter registration records does not invalidate the signature, a substantial variation renders the signature invalid. Reasonable doubts must be resolved in favor of the signer of the petition. (IC 3-5-6)

3. Political Party Names

A candidate may not submit a petition of nomination requesting ballot placement for a political party whose name would result in voter confusion due to its similarity with another party's name. If the candidate declines to amend the petition to remove this confusion, the petition shall be denied. (IC 3-8-6-5.5)

4. Candidate Withdrawal Requirements

The **DEADLINE** for a person nominated by petition for a town office who wishes to withdraw from the municipal election ballot to file a written notice of candidate withdrawal with the county election board is **12:00 noon, prevailing local time, on Tuesday, July 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will not certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after July 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

Filling Candidate Vacancies

Thursday, August 28, 2003, by 12:00 noon, prevailing local time, is the last day for a town chairman of a political party that submitted a petition of nomination for the election of candidates to town office to file a certificate of candidate selection to fill any candidate vacancy. The certificate must be accompanied by the candidate's written consent to the selection. (IC 3-13-1-18)

E. Write-in Candidates

1. Filing Requirements

Indiana law provides that only votes for declared write-in candidates are counted. (IC 3-12-1-1.7(a))

A person who desires to be a write-in candidate for a town office in the municipal election on Tuesday, November 4, 2003 must file a declaration of intent to be a write-in candidate (CAN-51 form) with the county election board. (IC 3-8-2-2.5)

The CAN-51 form is available from the Election Division's office and each circuit court clerk's office. A CAN-51 is included in this Guide under the *Candidate Forms* tab.

The **first day** a write-in candidate may file the CAN-51 form with the county election board is **Wednesday, August 6, 2003** and the **DEADLINE** for filing is **12:00 noon, prevailing local time, Monday, September 15, 2003**. (IC 3-8-2-2.5; IC 3-8-2-4; IC 3-8-2-5; IC 3-11-2-11.5)

2. Candidate Withdrawal Requirements

The **DEADLINE** for a person who files a declaration of intent to be a write-in candidate for a town office to file a written notice of candidate withdrawal with the county election board is **12:00 noon, prevailing local time, on Monday, September 15, 2003**. (IC 3-8-7-28) Upon receipt of this notice, the county election board will not certify that individual's name as a candidate for the municipal election. **Notice to withdraw candidacy filed after September 15, 2003 at 12:00 noon will not be considered valid.**

The municipal election candidate withdrawal form (CAN-46) is available from the Election Division's office and each circuit court clerk's office. A CAN-46 is included in this Guide under the *Candidate Forms* tab.

3. Political Party Affiliation

A write-in candidate may claim affiliation with a political party. Indiana Code 3-8-2-7 sets forth the standard for determining the political party affiliation of a candidate who files a declaration of candidacy as a candidate affiliated with the Democratic or Republican party. The political party affiliation of this candidate is deemed to be:

- (1) the political party in whose primary the candidate most recently voted; or
- (2) the political party of the county chair who certifies that the candidate is a member of that political party.

If a candidate has never voted in a primary election, the political party claimed by the candidate determines the candidate's party affiliation. (IC 3-8-2-7)

However, if a write-in candidate claims affiliation with a political party: (1) that already has ballot access, (2) of a candidate who has previously filed a petition of nomination under IC 3-8-6, or (3) whose name would result in voter confusion due to its similarity with the name of the political party in (1) or (2), then a registered voter in the election district may question the validity of the filing under IC 3-8-1-2. The county election board shall determine the validity of the questioned filing. If the county election board determines that the candidate's stated party affiliation would result in voter confusion due to its similarity with another party's name, and the candidate declines to amend the declaration to remove this confusion, then the board shall deny the filing. (IC 3-8-2-12.5)

Appendix

Candidate Forms

CAN-1	Candidate Filing Challenge
CAN-16	Town Office Declaration of Candidacy by a Democratic, Libertarian, or Republican Party Candidate
CAN-42	Declaration of Candidacy for Municipal Primary Nomination
CAN-43	Municipal Primary Election Candidate Withdrawal
CAN-44	Indiana Petition of Nomination for City or Town Office
CAN-45	Consent of Independent or Minor Political Party Candidate Nominated by Petition For a City or Town Office
CAN-46	Municipal Election Candidate Withdrawal
CAN-48	Declaration of Candidacy and Written Consent to Fill a Ballot Vacancy For a City or Town Office
CAN-51	Declaration of Intent to be a Write-in Candidate